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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 005828

SIPDIS

DEPARTMENT FOR EUR/SE

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SUBJECT: AMBASSADOR MEETS WITH CONSTITUTIONAL COURT
PRESIDENT BUMIN

REF: ANKARA 4313

Classified by Ambassador Eric S. Edelman; reasons 1.5 (b) and (d).

11. (U) Summary: In a September 8 introductory meeting, Constitutional Court President Bumin told the Ambassador he plans to establish a Free Speech Committee of Turkish jurists. He said the GOT should advance human rights reform and EU membership by focusing on implementing recent legal amendments, though it will also be necessary to make minor amendments to the constitution to emphasize the supremacy of international law. He argued that Turkey faces no problems regarding religion, though some have created the impression of a problem involving Islamic headcovering. The Ambassador said the US will continue to support judicial reform in Turkey, and to strongly back Turkey's EU candidacy. He said the US is particularly interested in ensuring full compliance with the Hague Convention on Child Abduction. End Summary.

Free Speech Committee

12. (U) Bumin told the Ambassador his May Embassy-sponsored visit to the US (reftel) was valuable. Although Turkey and the US have different legal systems, the two nations share the same basic values. The Turkish Constitutional Court pays close attention to rulings of both the US Supreme Court and the European Court of Human Rights (ECHR) and makes references to them in its own decisions. Bumin said he plans to establish a Committee on Freedom of Speech, following up on a suggestion made to him on his US trip by the Institute for the Study and Development of Legal Systems. Bumin will serve as chairman of the Committee, which will include representatives from the Supreme Court of Appeals, the Council of State, the Constitutional Court, and academia. The Committee, which should be operating before the judicial recess next July, will issue reports, make declarations, and publicize the work of the Constitutional Court. Its work will support Turkey's EU bid.

Reform Implementation, International Law

13. (U) The Ambassador said the Embassy will be available to help the Committee in any way possible. The Embassy will also continue and enhance efforts to support judicial reform in Turkey, and will continue to strongly back Turkey's EU candidacy. He asked whether Bumin agrees with those in Turkey and Europe who have called for a major re-drafting of the Turkish Constitution. Bumin asserted that the gap between Turkey and the West in free speech and other human rights fields is not as great as some have claimed. Most of the problems relate to Turkey's legal codes, not the Constitution, and many of these have been addressed by recent legislative reforms. The primary challenge for the GOT now is to implement these reforms. There are a couple of articles of the Constitution that need to be amended, as the presidents of both the Supreme Court of Appeals and Turkish Bar Association have recently stated. Article 90 poses a problem, particularly in the eyes of the EU, because it fails to establish clearly the supremacy of international agreements over domestic law. The failure of the judiciary to recognize Turkey's obligations under the European Convention on Human Rights, for example, has led to numerous ECHR rulings against Turkey.

Child Abduction

14. (SBU) The Ambassador said the US has a special interest in encouraging GOT compliance with the Hague Convention on Child Abduction. Abduction cases tend to be highly sensitive and tragic, and often bring international obligations and domestic law into conflict. These cases can easily degenerate into public controversies, and governments must manage them carefully. A greater understanding of international law would help smooth the process. Bumin agreed, but said some Turkish jurists unfortunately do not share his views on international law.

Bumin: Headscarf Issue "False" Problem

15. (U) The Ambassador asked whether the reform process would change the Turkish State's approach to religion. Bumin argued that Turkey faced no real problems relating to religion -- all are free to practice their faith. However, some people are creating a false impression of a religious problem relating to the wearing of Islamic-style headcovering. He said religious headcovering is tolerated in Turkey, except when it conflicts with "legitimate concerns." For example, all professions have rules, including rules of attire. However, in Turkey there are people who become nurses and soldiers and then insist on replacing a part of their uniform with Islamic-style headcovering. The Turkish judiciary maintains that this is not a religious right, a position supported by a number of ECHR rulings siding with the GOT in cases like these, he claimed.

Comment

16. (C) Bumin's view of the headscarf issue is indicative of his engagement in the reform process. On some specific issues he is a supporter and on others he defends the status quo.

EDELMAN